

## REMARKS

Claims 1-20 are pending in the application. Claims 1, 9 and 17 are amended, and claims 5 and 13 are cancelled. No new matter was introduced by the amendments. The amendments are supported by the subject matter of claims 5 and 13, which is now recited in the independent claims, as amended. Applicant respectfully requests that Examiner enters the amendments.

### *Interview Summary*

Applicants undersigned representative thanks Examiner Vizvary and Primary Examiner Colbert for the courtesy extended in the telephonic interview conducted on February 25, 2009. During the interview the claims were discussed in view of prior art cited in the outstanding office action.

### *Claim Rejections – 35 USC § 102*

Examiner rejected claims 1, 4, 7, 17, 18 and 20 under 35 U.S.C. 102(b) as being anticipated by Olsen US2002/0123951 ("Olsen"). Applicant traverses this rejection.

Olsen fails to teach or suggest the claimed invention, which requires a product having a payoff value wherein the payoff value is a function of the similarity of the behavior of the intermediate performances of the at least two underlying assets, each intermediate performance being related to the time period between two successive intermediate dates, or an implied price correlation between two assets, wherein each asset is a foreign-exchange rate, an index level, an equity indices or an interest rate, or a method of correlation risk hedging using that product.

Examiner admits (at pages 8 and 15 of the office action) that "Olsen fails to explicitly teach that each underlying asset is a foreign-exchange rate, an index level, and equity indices or an interest rate."

Examiner admits (at page 11) that Olsen "fails to explicitly teach selecting at least two underlying assets, at least one underlying asset having an associated risk to be hedged; and defining a financial product that may be traded independent of the at least two underlying assets."

As cited by Examiner, Olsen "determines a portfolio from past values of underlyings and from views about the future values of underlyings" (Olsen at [0004]). Olsen (at [0011]) defines a *portfolio* as a "specification of the number of units of an asset held from a universe of assets. Each asset represents a single item that may be traded independently from other assets within the scopes of institutional constraints." (Emphasis added.) Applicant's claimed invention, instead, is based on an analysis of a foreign-exchange rate, an index level, an equity indices or an interest rate. These assets are broad market indices, values that intrinsically are not "held" and ones that may not be traded. Olsen fails to describe any analysis based on market indices, or assets. Olsen's system is limited to an analysis of assets actually held in a *portfolio*. Applicant's invention does not use such a portfolio. Applicant uses a set of underlying assets that are a foreign-exchange rate, an index level, an equity indices or an interest rate, which intrinsically are not held assets.

Olsen at [0021] states that "[o]ne of the salient features of this system is its ability to handle not only assets but strategies which are prescribed rules for entering and neutralizing positions in one or more assets ... . Dynamic hedging with trading models is an automatic consequence of the system – since the portfolio can have a position in the US Dollar and a trading model against the US Dollar as two separate assets with different weights in the portfolio." Applicant's invention relates to a set of underlying assets that are a foreign-exchange rate, an index level, an equity indices or an interest rate. These are not "held assets," or different means of weighting held assets for devising rules for entering or neutralizing positions in held assets. Examiner admits (at page 17 and 18) that Olsen "fails to teach the product is negotiated on an exchange." In sharp contrast, the product produced by the method of Applicant's claim 1 or the product of claim 17 are "held" and traded on an exchange. Accordingly, Applicant's claimed product and the method for hedging using the product are not taught or suggested by Olsen.

Further, Olsen's calculations are intended to provide "a determination of an optimal portfolio ... that maximizes returns for a prescribed risk level [for held assets]" (Olsen at [0011]). Applicant's invention, in contrast, involves producing a product having a payoff value, which is a function of the similarity of behavior of the performances of two underlying assets that are a foreign-exchange rate, an index level, an equity indices or an interest rate.

Applicant's invention does not involve *portfolio* allocation to maximize the value of the held assets, as required by Olsen's system.

In view of the above arguments, the claimed invention is not taught or suggested by Olsen. Accordingly, Applicant respectfully requests that Examiner withdraws the instant rejection of claims 1, 4, 7, 17, 18 and 20 for lack of novelty.

***Claim Rejections – 35 USC § 103***

Examiner rejected claims 2, 3, 5, 6, 8-16 and 19 under 35 U.S.C. 103(a) as being obvious over Olsen in view of Lange 6,321,212 ("Lange"). Applicant traverses this rejection.

As argued above in response Examiner's rejection of claims as anticipated by Olsen, that reference fails to teach or suggest the invention recited in claims 1, 4, 7, 17, 18 and 20. For the same reasons, Olsen does not teach or suggest the invention recited in claims 2, 3, 6, 8-12, 14-16 and 19. That is Olsen fails to teach or suggest a product having a payoff value wherein the payoff value is a function of the similarity of the behavior of the intermediate performances of the at least two underlying assets, each intermediate performance being related to the time period between two successive intermediate dates, or an implied price correlation between two assets, wherein each asset is a foreign-exchange rate, an index level, an equity indices or an interest rate, or a method of correlation risk hedging using that product.

Examiner admits (at page 8 of the office action) that "Olsen fails to explicitly teach that each underlying asset is a foreign-exchange rate, an index level, and equity indices or an interest rate."

Lange does not cure the defects of Olsen, or teach or suggest the required elements of the rejected claims. Lange describes financial products that are based on portfolios of held assets which therein are called *demand-based adjustable return (DBAR) contingent claims*. Lange defines "contingent claims" in much the same way as does Olsen (see Lange at col. 7, lines 31-55), i.e., as reflecting the value of investments or held assets.

Similarly Lange (at col 7. line 63 to col. 9, l. 17) defines "derivative security" in a way "customarily ascribed to it in the securities, trading, insurance and economic communities." Lange does not describe the novel product required in Applicant's claims, a product having a payoff value wherein the payoff value is a function of the similarity of the behavior of the

intermediate performances of the at least two underlying assets, each intermediate performance being related to the time period between two successive intermediate dates, or an implied price correlation between two assets, wherein each asset is a foreign-exchange rate, an index level, an equity indices or an interest rate, or a method of correlation risk hedging using that product.

Examiner cited Lange at col. 23, lines 44-49 for teaching an underlying asset that is a foreign-exchange rate, an index level, an equity indices or an interest rate. In contrast to Examiner's contention, that paragraph in Lange relates to defining a "DBAR contingent claim group [that] is typically associated with one distribution of states." (Emphasis added). It is the **distribution** that may be based, *inter alia*, on market indices, not the DBAR contingent claim group, which reflects the actual holdings. That is, the holdings are merely "associated with" a distribution. Further, Lange says nothing about how the distribution is determined, other than it may include market indices. Lange does not define the product required by Applicant's claims, which has a payoff value wherein the payoff value is a function of the similarity of the behavior of the intermediate performances of the at least two underlying assets, each intermediate performance being related to the time period between two successive intermediate dates, or an implied price correlation between two assets, in which each asset is a foreign-exchange rate, an index level, an equity indices or an interest rate. Accordingly, Lange does not provide the claim elements that Olsen fails to disclose.

Examiner cites Lange at col. 7 line 60 to col. 8, line 3 and col. 21, lines 16-22 as teaching: "selecting at least two underlying assets, at least one underlying asset having an associated risk to be hedged; and defining a financial product that may be traded independent of the at least two underlying assets." Lange (at col. 7, lines 63-65) defines a "derivative security" as "ha[ving] a meaning customarily ascribed to it in the securities trading, insurance and economics communities." (See also Langer at col. 2, lines 35-38, for further language about conventional meaning of "derivatives.") Langer uses derivative within the standard meaning of the term. In contrast, Applicant's product, which Examiner implies is a "derivative security," is novel and nowhere disclosed or suggested by Lange, by Olsen, or by the combination of the two.

Further, Lange at col. 21 refers to a multi-state investment. An investment inherently requires a held asset. As stated above in response to Examiner's anticipation rejection,

Applicant's invention requires that the underlying assets are a foreign-exchange rate, an index level, an equity indices or an interest rate. These are values implicitly are not "held assets."

Examiner cited Langer at col. 14, lines 1-5, as allegedly teaching intermediate performances are monthly, weekly or daily performances used to calculate the product according to the formula of claims 4 and 12. This is a misreading of that language, which instead is limited to trading of *contingent claims*, which are in the context of Lange are actual investments. In contrast, the formula of claims 4 and 12 are used to define the payoff value of the claimed product with respect to the value of an underlying asset, in which each asset is a foreign-exchange rate, an index level, an equity indices or an interest rate. Lange fails to describe a product calculated based on performance of an asset so limited, including those a product sold on a futures market as recited by claims 3 and 11.

Examiner cited Lange at col. 51, lines 25-28, as teaching a product value determined by a consensus mechanism. Just as before, Lange there describes DBAR contingent claims, which implicitly require values of held assets, or investments. Lange fails to describe a product calculated based on performance of an asset so limited, including those a product sold on a futures market as recited by claims 8 and 16.

For all of these reasons, above, Olsen alone or in combination with Lange fails to teach or disclose the invention recited in claims 2, 3, 6, 8-12, 14-16 and 19. Accordingly, these claims are not obvious in view of a combination of these references. Applicant respectfully requests that Examiner withdraws the instant obviousness rejection.

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37 CFR § 1.116**

### **CONCLUSION**

In the view of the foregoing amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the application for any reason, the Examiner is encouraged to contact Applicants' representative.

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